

REMARKS

The Examiner has required Applicants to elect a species of group A (compound I or compound II) and a species of group B (hepatitis C virus or bovine diarrhea virus) for examination, stating that there is an examination and search burden for these species due to their mutually exclusive characteristics. Applicants have elected, with traverse, compound I of group A (read on in pending claims 1-20) and hepatitis C virus (HCV) (read on in pending claims 1-20) from group B. Applicants note that they neither acquiesce nor agree with the Examiner's reasoning for the restriction requirement but wish to advance this case in a timely manner.

Election with traverse

Specifically, Applicants traverse the restriction requirement in that such requirements are optional in all cases (MPEP §803). If the search and examination of a set of claims can be made without serious burden, the Examiner must examine them on the merits (MPEP §803).

Applicants respectfully submit that the compound I and compound II are closely related compounds. Thus, any search regarding one compound will be in the same field of search and share the same search queries. Both compounds are known as 6-(2-acetylvinythio) purine, or AVTP. Both share the same molecular structure. The two compounds are geometric isomers, with compound I having cis geometry across the C-C double bond in the side chain (cis-AVTP) and compound II having trans geometry across the same double bond (trans-AVTP). Both are guanine analogues that target glutathione rich tissues and have reduced tissue toxicity in comparison to other related compounds (see paragraph [0014] of specification). Because they are so closely related, a search of patent literature and technical publications directed to the subject matter of the cis form of AVTP (compound I) would include within its scope the relevant references describing the subject matter of the trans form of AVTP (compound II). In fact, it will be unnecessarily burdensome on both Applicants and the Patent Office to consider methods using the cis and trans forms of AVTP in separate divisional patent applications.

Similarly, Applicants respectfully submit that hepatitis C virus (HCV) and bovine diarrhea virus (BVDV) are closely related viruses. Thus, any search regarding one virus will be in the same field of search and share the same search queries as a search regarding the other virus. Both viruses are in the family of viruses known as flaviviruses. Flaviviruses share a number of essential characteristics that would cause them to react in a similar way to antiviral compounds. HCV and BVDV are both single stranded RNA viruses. They both contain + (message) sense RNA and utilize a single open reading frame. They also both use the same cap-independent translation strategy utilizing complex RNA structures in their 5' nontranslated regions as internal ribosomal entry sites (see paragraph [0010] of specification). Because they are so closely related, a search of patent

literature and technical publications directed to the subject matter of BVDV would certainly include within its scope the relevant references describing the subject matter of HCV. In fact, it will be unnecessarily burdensome on both Applicants and the Patent Office to consider methods affecting the two closely related viruses in separate divisional patent applications.

Conclusion

As always, the Examiner is invited to contact the undersigned at the telephone number appearing below, if it is believed that such would aid in furthering the prosecution of the present application. A petition for a One Month Extension of Time is enclosed. If any additional fees are needed, please charge Deposit Account 17-0055. The Commissioner is hereby authorized to deduct any fees arising as a result of this or any other communication in this matter from Deposit Account 17-0055.

Respectfully submitted,

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